

Ekwan E. Rhow - State Bar No. 174604  
erhow@birdmarella.com  
Timothy B. Yoo - State Bar No. 254332  
tyoo@birdmarella.com  
Ray S. Seilie - State Bar No. 277747  
rseilie@birdmarella.com  
BIRD, MARELLA, BOXER,  
WOLPERT, NESSIM, DROOKS,  
LINCENBERG & RHOW, P.C.  
1875 Century Park East, 23rd Floor  
Los Angeles, California 90067-2561  
Telephone: (310) 201-2100  
Facsimile: (310) 201-2110

Jason D. Russell – State Bar No. 169219  
jason.russell@skadden.com  
Douglas A. Smith – State Bar No. 290598  
douglas.smith@skadden.com  
SKADDEN, ARPS, SLATE, MEAGHER &  
FLOM LLP  
300 South Grand Avenue, Suite 3400  
Los Angeles, California 90071-3144  
Telephone: (213) 687-5000  
Facsimile: (213) 687-5600  
  
Attorneys for Defendant CREDIT  
ACCEPTANCE CORPORATION

Attorneys For Plaintiff WESTLAKE  
SERVICES, LLC d/b/a WESTLAKE  
FINANCIAL SERVICES

**UNITED STATES DISTRICT COURT**  
**CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION**

WESTLAKE SERVICES, LLC d/b/a  
WESTLAKE FINANCIAL SERVICES;

Plaintiff,

vs.

CREDIT ACCEPTANCE  
CORPORATION,

Defendant.

Case No. 2:15-cv-07490 SJO (MRWx)

**JOINT STIPULATION TO  
CONTINUE PRETRIAL AND TRIAL  
DATES**

Honorable S. James Otero

Complaint Filed: September 24, 2015  
Trial Date: January 23, 2018

**JOINT STIPULATION**

The Parties, through their respective counsel, submit this stipulation requesting that, to avoid calendar conflicts based on previously scheduled trials, arbitrations, appellate arguments, and vacation travel, the Court continue the trial date in this case from January 23, 2018, to March 13, 2018, or as soon thereafter as the Court is available, and also continue all related pretrial dates, including the date for the final pre-trial conference. The Parties hereby stipulate as follows:

A. On November 3, 2017, the Court, on its own motion, continued the jury trial previously scheduled to begin December 4, 2017, to January 23, 2018, and also continued the final pretrial conference from November 20, 2017, to January 8, 2018. (Dkt. No. 251).

B. Although counsel for both Parties were available and prepared to conduct trial on the previously scheduled date, the new date conflicts with preexisting trial dates for two members of Westlake's three-member trial team, including its lead trial counsel. These include:

1. A four-week jury trial in Nevada state court potentially beginning January 2, 2018. (Declaration of Ekwan E. Rhow ("Rhow Decl.") ¶ 2a.)
2. A three-month jury trial in California state court in Santa Barbara County scheduled to begin January 22, 2018 and expected to conclude in late April. (Declaration of Ray S. Seilie ("Seilie Decl.") ¶ 3).
3. A six-week jury trial in the Central District of California currently scheduled to begin on January 23, 2018. (Rhow Decl. ¶ 2b).
4. A two-week jury trial in the Central District of California currently scheduled to begin on February 13, 2018. (Rhow Decl. ¶ 2c).

1           5.     A two-week vacation involving international travel currently  
2                 scheduled to begin March 26, 2018. (Rhow Decl. ¶ 2d).

3           6.     A three-week jury trial in California state court in Los Angeles  
4                 County currently scheduled to begin April 23, 2018. (Rhow  
5                 Decl. ¶ 2e).

6           C.     Counsel for Defendant Credit Acceptance does not oppose Westlake's  
7     request for a continuance, but Credit Acceptance requests a March 13, 2018, trial  
8     date, or a trial date as soon thereafter in March as the Court is available, because of  
9     actual and potential scheduling conflicts of its co-lead trial counsel. Those conflicts  
10    include:

11           1.     A trial in *Luna v. Marvell Technology Group, Ltd.*, No. 3:15-cv-  
12                 05447 (N.D. Cal.), commencing on March 5, 2018 (Russell Decl.  
13                 ¶ 3.)

14           2.     A two- to three-week arbitration in *Pompliano v. Snap, Inc.*  
15                 commencing on April 9, 2018, before the American Arbitration  
16                 Association. (Russell Decl. ¶ 4.)

17           3.     An appellate oral argument in *The Sam Francis Foundation v.*  
18                 *Christies, Inc.*, No. 16-56235 (9th Cir.), during the week of April  
19                 9-13, 2018. (Russell Decl. ¶ 5.)

20           4.     A possible appellate oral argument in *Mercury Insurance Co. v.*  
21                 *Jones*, No. G054496 (Cal. Ct. App.), in April. (Russell Decl.  
22                 ¶ 6.)

23           5.     A confidential, international arbitration under the German  
24                 Institute of Arbitration (DIS) from June 11-22, 2018, requiring  
25                 out-of-country work in Germany during the week that includes  
26                 April 13, 2018, and then from May into July 2018. (Frank Decl.  
27                 ¶ 3.)

28           D.     Although counsel for Westlake currently has some scheduling conflicts

1 with a March 2018 trial date, Westlake's counsel is willing to, at this time, agree to  
2 a March 13, 2018, trial date and attempt to address those conflicts.

3 E. The Parties acknowledge that Westlake may request a further  
4 continuance closer to the trial date if its trial team is unable to resolve its currently  
5 existing conflicts.

6 F. The Parties agree that the jury trial in this case should be continued to  
7 Tuesday, March 13, 2018, or as soon thereafter as the Court is available, and that the  
8 final pretrial conference should be continued to a date no earlier than Tuesday,  
9 February 26, 2018.

10 ///

11 ///

12 ///

13 ///

14 ///

15 ///

16 ///

17 ///

18 ///

19 ///

20 ///

21 ///

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

1 NOW, THEREFORE, THE PARTIES STIPULATE THAT:

2 1. The jury trial in this case is continued from Tuesday, January 23, 2018  
3 to Tuesday, March 13, 2018.

4 2. The pre-trial conference in this case is continued from Monday,  
5 January 8, 2018 to Monday, February 26, 2018.

6  
7 DATED: November 28, 2017 Bird, Marella, Boxer, Wolpert, Nessim,  
8 Drooks, Lincenberg & Rhow, P.C.

9  
10 By: /s/ Ray S. Seilie  
11 Ray S. Seilie  
12 Attorneys for Plaintiff WESTLAKE  
13 SERVICES, LLC d/b/a WESTLAKE  
FINANCIAL SERVICES

14 DATED: November 28, 2017 Skadden, Arps, Slate, Meagher & Flom LLP

15  
16  
17 By: /s/ Douglas A. Smith  
18 Douglas A. Smith  
19 Attorneys for Defendant CREDIT  
20 ACCEPTANCE CORPORATION

21 **ATTESTATION**

22 I, Ray S. Seilie, attest that the signatories listed above and in the  
23 accompanying declarations, and on whose behalf this filing is submitted, concur in  
24 the filing's content and have authorized the filing.

25 /s/ Ray S. Seilie  
26 Ray S. Seilie

**DECLARATION OF EKWAN E. RHOW**

I, Ekwan E. Rhow, declare as follows:

1. I am an active member of the Bar of the State of California and a Principal with Bird, Marella, Boxer, Wolpert, Nessim, Drooks, Lincenberg & Rhow, A Professional Corporation, attorneys of record for Plaintiff WESTLAKE SERVICES, LLC d/b/a WESTLAKE FINANCIAL SERVICES in this action. I make this declaration in support of the Parties' Joint Stipulation To Continue Pretrial And Trial Dates. Except for those matters stated on information and belief, I make this declaration based upon personal knowledge and, if called upon to do so, I could and would so testify.

2. I am Westlake's lead trial counsel in this case and was prepared to attend trial on the previously-scheduled trial date of December 4, 2017. Unfortunately, I have a current calendar conflict with the newly set trial date of January 23, 2018 and various other dates in early 2018 because of the following preexisting commitments:

a. I am representing one of the director defendants as lead trial counsel in *Cotter et al. v. Cotter et al.*, a shareholder derivative matter pending in the District Court for Clark County, Nevada, numbered A-15-719860-B. A jury trial in that case is currently scheduled for a five-week "stack" beginning January 2, 2018 and is expected to last four weeks.

b. I am representing defendants as lead trial counsel in *United States v. J-M Manufacturing Co., Inc.*, a *qui tam* matter pending in the United States District Court for the Central District of California, numbered 5:06-cv-00055 GW-PJW. A jury trial in that case is currently scheduled to begin on January 23, 2018, and is expected to last six weeks.

c. I am representing Samyang Foods Co., Ltd. as lead trial counsel in *Sam Yang (U.S.A.) et al. v. Samyang Foods Co., Ltd.*, a case pending in the United States District Court for the Central District of California, numbered 2:15-

1 cv-07697 AB (KS). Trial in that case is currently scheduled to start on February 13,  
2 2018.

3 d. I am scheduled to travel to Korea with my family during my  
4 children's spring break, which is scheduled between March 26, 2018 and April 6,  
5 2018.

6 e. I am representing defendants as lead trial counsel in *P.T. Dayup*  
7 *Indo v. IMEX Industries, Inc.*, a case pending in the California Superior Court for  
8 the County of Los Angeles, numbered BC569276. A jury trial in that case is  
9 currently scheduled to begin April 23, 2018. The trial is expected to last two weeks.

10 I declare under penalty of perjury under the laws of the United States of  
11 America that the foregoing is true and correct, and that I executed this declaration  
12 on November 28, 2017, at Los Angeles, California.

13  
14 /s/ Ekwon E. Rhow  
15 Ekwon E. Rhow  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**DECLARATION OF RAY S. SEILIE**

I, Ray S. Seilie, declare as follows:

1. I am an active member of the Bar of the State of California and an Associate with Bird, Marella, Boxer, Wolpert, Nessim, Drooks, Lincenberg & Rhow, A Professional Corporation, attorneys of record for Plaintiff WESTLAKE SERVICES, LLC d/b/a WESTLAKE FINANCIAL SERVICES in this action. I make this declaration in support of the Parties' Joint Stipulation To Continue Pretrial And Trial Dates. Except for those matters stated on information and belief, I make this declaration based upon personal knowledge and, if called upon to do so, I could and would so testify.

2. I am a member of Westlake's trial team in this matter and have been substantially involved in Westlake's trial preparation, including the preparation of Westlake's exhibits, percipient and expert witnesses, and trial strategy. I was prepared to attend trial in this matter on the previously scheduled trial date of December 4, 2017.

3. I am also a member of the defense team in the case *People of the State of California v. Plains All American Pipeline, LP*, a case pending in California Superior Court for the County of Santa Barbara numbered 1495091. Trial in that matter is scheduled to begin January 22, 2017 and is expected to take three months. The trial is estimated to be lengthy because the prosecution has identified at least 150 witnesses it may call, and the trial court is only available to conduct trial three days a week. Accordingly, I am currently not available to prepare for and attend trial in this matter until early May.

///

///

///

///

///



1 I declare under penalty of perjury under the laws of the United States of  
2 America that the foregoing is true and correct, and that I executed this declaration  
3 on November 28, 2017, at Los Angeles, California.

4  
5 /s/ Ray S. Seilie  
6 Ray S. Seilie  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**DECLARATION OF JASON D. RUSSELL**

1  
2 1. I am an attorney admitted to practice before the courts of the State of  
3 California and have been admitted to this Court. I am a partner in the law firm of  
4 Skadden, Arps, Slate, Meagher & Flom LLP, which is counsel of record for  
5 Defendant Credit Acceptance Corporation ("Credit Acceptance") in the above-  
6 captioned matter. I submit this declaration in support of the "Joint Stipulation to  
7 Continue Pretrial and Trial Dates." I make this declaration based on my own  
8 personal knowledge, and if called upon to do so, could and would testify  
9 competently thereto.

10 2. I will serve as co-lead trial counsel for Credit Acceptance in the above-  
11 captioned matter.

12 3. I am also trial counsel in *Luna v. Marvell Technology Group, Ltd.*, No.  
13 3:15-cv-05447 (N.D. Cal.). Trial in that case is scheduled to commence on March  
14 5, 2018.

15 4. I have a two- to three-week arbitration in *Pompliano v. Snap, Inc.*  
16 commencing on April 9, 2018, before the American Arbitration Association.

17 5. During the week of April 9-13, 2018, I will be preparing for and orally  
18 arguing the appeal in *The Sam Francis Foundation v. Christies, Inc.*, No. 16-56235  
19 (9th Cir.).

20 6. In *Mercury Insurance Co. v. Jones*, No. G054496 (Cal. Ct. App.),  
21 appellant's reply brief is due on January 4, 2018. Because oral argument must be set  
22 within 90 days of that filing, the oral argument will likely be scheduled in April  
23 2018. I will orally argue that appeal.

24 ///

25 ///

26 ///

27 ///

28 ///

1 I declare under penalty of perjury under the laws of the United States of  
2 America that the foregoing is true and correct.

3 Executed on November 28, 2017, in Los Angeles, California.

4  
5 /s/ Jason D. Russell  
6 Jason D. Russell  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**DECLARATION OF JONATHAN FRANK**

1  
2 1. I am an attorney admitted to practice before the courts of the State of  
3 California and have been admitted to this Court. I am a partner in the law firm of  
4 Skadden, Arps, Slate, Meagher & Flom LLP, which is counsel of record for  
5 Defendant Credit Acceptance Corporation ("Credit Acceptance") in the above-  
6 captioned matter. I submit this declaration in support of the "Joint Stipulation to  
7 Continue Pretrial and Trial Dates." I make this declaration based on my own  
8 personal knowledge, and if called upon to do so, could and would testify  
9 competently thereto.

10 2. I will serve as co-lead trial counsel for Credit Acceptance in the above-  
11 captioned matter.

12 3. I am lead trial counsel in a confidential, international arbitration under  
13 the German Institute of Arbitration (DIS). The arbitration's hearing is scheduled for  
14 June 11-22, 2018, in Frankfurt, Germany. During the week of April 13, 2018, I will  
15 be in Germany for the arbitration's procedural conference. From May until the start  
16 of the hearing, I will be in Germany most weeks preparing for the hearing. After the  
17 hearing, I anticipate being in Germany for a large portion of July 2018 for post-  
18 hearing briefing and proceedings.

19 I declare under penalty of perjury under the laws of the United States of  
20 America that the foregoing is true and correct.

21 Executed on November 28, 2017, in New York, New York.

22  
23 /s/ Jonathan Frank  
24 Jonathan Frank  
25  
26  
27  
28